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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): Valentin Panayotov
Case: 1
Serial No.: 09/705,578
Filing Date: November 3, 2000
Group: 2151
Examiner: Karen C. Tang

I hereby certify that this paper is being deposited on this date with the U.S. Postal Service as first class mail addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature: Lucas M. Hamlin Date: February 22, 2006

Title: Communication Protocol for Data Exchange Via Shared Files

TRANSMITTAL OF APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith are the following documents relating to the above-identified patent application:

- (1) Appeal Brief; and
- (2) Copy of Notice of Appeal, filed on December 19, 2005, with copy of stamped return postcard indicating receipt of Notice by PTO on December 22, 2005.

There is an additional fee of \$500 due in conjunction with this submission under 37 CFR §1.17(c). Please charge **Ryan, Mason & Lewis, LLP Account No. 50-0762** the amount of \$500, to cover this fee. In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **Deposit Account No. 50-0762** as required to correct the error. A duplicate copy of this letter is enclosed.

Respectfully submitted,

Date: February 22, 2006

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Signature: Louisa M. Hamlin Date: February 22, 2006

Title: Communication Protocol for Data Exchange Via Shared Files

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby appeals the final rejection dated September 19, 2005 of claims 1-10 of the above-identified application.

REAL PARTY IN INTEREST

The present application is assigned of record to Agere Systems Inc. The assignee Agere Systems Inc. is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals or interferences.

STATUS OF CLAIMS

The present application was filed on November 3, 2000 with claims 1-10. Claims 1-10 are currently pending in the application. Claims 1, 2, 3 and 7 are the independent claims.

Each of claims 1-10 stands rejected under 35 U.S.C. §103(a). Claims 1-10 are appealed.

STATUS OF AMENDMENTS

There have been no amendments filed subsequent to the final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a computing system for exchanging data between a first computer application of the system and a second computer application of the system. The computing system comprises a computer application data file for receiving data from the first computer application, a computer application send file for receiving notification when the computer application data file has received data from the first computer application, and a computer application read file for receiving notification when data has been read from the computer application data file by the second computer application. The first computer application monitors the computer application read file for notification from the second computer application to initiate further writing to the computer application data file. With reference to FIG. 1 of the drawings, the first and second computer applications may be respective computer applications A and B as shown. Examples of the recited computer application data file, computer application send file and computer application read file may be seen in the data file A_data.dat, A_data.snt and A_data.red, respectively, or in the data file B_data.dat, B_data.snt and B_data.red, respectively. See the specification at, for example, page 5, line 20, to page 7, line 6.

Independent claim 2 is also directed to a computing system, reciting as elements thereof a computer application data file for each of a number of computer applications of the system, and associated computer application send files and read files. The recited computer applications may be, for example, computer applications A and B of FIG. 1 in the drawings, with the data files being given by A_data.dat and B_data.dat, the send files being given by A_data.snt and B_data.snt, and the read files being given by A_data.red and B_data.red. See the specification at, for example, page 5, line 20, to page 7, line 6.

Independent claims 3 and 7 are method claims which recite writing, reading, notifying and monitoring steps relating to one or more computer application data files, one or more computer application send files and one or more computer application read files. Support for the recited arrangements can be found in FIG. 1 of the drawings and in the specification at, for example, page 5, line 20, to page 7, line 6.

The claimed invention provides a number of significant advantages over conventional arrangements. See the specification at, for example, page 5, lines 16-19, and page 9, lines 4-8.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U. S. Patent No. 6,671,700 (hereinafter “Creemer”) in view of U.S. Patent No. 6,633,924 (hereinafter “Wu”).

ARGUMENT

Claims 1 and 2

The Manual of Patent Examining Procedure (MPEP), Eight Edition, August 2001, §706.02(j), states as follows with regard to the burden that the Examiner must meet in order to establish a proper §103(a) rejection:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits that the Examiner has failed to meet one or more of the above-noted basic criteria, and a proper *prima facie* case of obviousness has therefore not been established. More specifically, Applicant submits that the Creemer and Wu references, even if

assumed to be combinable, fail to “teach or suggest all the claim limitations.” Further, Applicant submits that there is insufficient motivation to combine Creemer and Wu, or to modify their collective teachings to meet the claim limitations.

Each of the independent claims 1 and 2 recites at least a computer application data file, a computer application send file and a computer application read file. The Examiner argues that such an arrangement of files is shown in the combined teachings of Creemer and Wu. Applicant respectfully disagrees.

In Creemer, information is shared between a host computer system and a peripheral computer system. More specifically, “a plurality of conduit programs running simultaneously on the host computer system synchronize information between the two computer systems” (Creemer, column 2, line 65, to column 3, line 2). The conduit programs “initiate time multiplex transfers” across “a single communication link between the two computer systems” (Creemer, column 3, lines 2-8). One skilled in the art would immediately recognize that this type of conduit program based time multiplex information transfer is entirely distinct from the claimed arrangements involving application programs reading from or writing to at least a computer application data file, a computer application send file and a computer application read file. In formulating the §103(a) rejection, the Examiner acknowledges the deficiencies of Creemer by attempting to apply a combination of Creemer and Wu to the claims.

However, the Wu reference fails to supplement the deficiencies of Creemer in this regard. Wu, like Creemer, fails to teach or suggest application programs reading from or writing to at least a computer application data file, a computer application send file and a computer application read file, as recited in the claims. Instead, Wu teaches an arrangement involving the use of a synchronization manager that interacts with interface components associated with respective application programs. See Wu at, for example, column 1, line 58, to column 2, line 43. There is no teaching or suggestion in Wu regarding reading from or writing to a computer application send file and a computer application read file as claimed. Wu not only fails to teach or suggest this type of file structure, it actively teaches away from it by teaching to use a synchronization manager in conjunction with interface components associated with respective applications.

Accordingly, it is believed that the collective teachings of Creemer and Wu fail to meet the limitations of the claims.

It should be noted in this regard that the Examiner in formulating the §103(a) rejection has not identified which files in Creemer or Wu are alleged to correspond to the recited computer application send file and computer application read file. The Examiner instead identifies computer application data files, and argues that reading and writing occurs. Applicant, however, is not attempting to claim reading from and writing to application data files. Instead, the claims set forth particular types of files, namely, a computer application send file and a computer application read file, which receive notifications as recited. It is these particular files, and their associated notifications, that are not disclosed or suggested by the proposed combination of Creemer and Wu.

Applicant further submits that the Creemer and Wu references are not combinable in the manner urged by the Examiner.

The Federal Circuit has stated that when patentability turns on the question of obviousness, the obviousness determination “must be based on objective evidence of record” and that “this precedent has been reinforced in myriad decisions, and cannot be dispensed with.” In re Sang-Su Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002). Moreover, the Federal Circuit has stated that “conclusory statements” by an examiner fail to adequately address the factual question of motivation, which is material to patentability and cannot be resolved “on subjective belief and unknown authority.” Id. at 1343-1344.

In the final Office Action at page 4, second paragraph, the Examiner argues that one skilled in the art would be motivated to combine Creemer and Wu because “Creemer indicates the flow charts [sic] of how system determine [sic] the communication established between two computer systems.” Applicant submits that this statement, and the remaining portion of the second paragraph on page 4 of the final Office Action, fail to provide sufficient objective evidence of motivation to combine Creemer and Wu. For example, the Examiner fails to address how one skilled in the art would be motivated to combine two entirely different synchronization arrangements, namely, the one in Creemer involving use of a plurality of conduit programs running simultaneously on a host computer system for initiating time multiplexed transfers, and the one in Wu involving the use of a synchronization manager that interacts with interface components associated with respective application programs. It is not clear how these two systems could be combined to produce a workable system, or why one would be motivated to combine them given that each purports to provide a complete solution to the synchronization problem. Moreover, each of these two references

teaches away from the claimed arrangements comprising application send files and application read files, by teaching synchronization arrangements which do not involve the use of such files.

The Examiner further argues that one would be motivated to combine or modify Creemer and Wu to meet the claimed invention because “to ensure the system has complete functionality.” See the final Office Action at page 4, second paragraph, and page 6, last sentence. This is believed to be a conclusory statement which fails to meet the above-noted requirements of the In re Sang-Su Lee decision.

It is therefore believed that a *prima facie* case of obviousness has not been established for independent claims 1 and 2.

Further, it is believed that the cited references each teach directly away from the claimed arrangements involving use of computer application data files, computer application send files and computer application read files.

Claims 3, 5 and 6

Independent claim 3, like claims 1 and 2, recites at least a computer application data file, a computer application send file and a computer application read file. It further recites particular writing, reading, notifying and monitoring steps relating to such files. The collective teachings of Creemer and Wu fail to teach or suggest the recited computer application data file, computer application send file and computer application read file, as was described in detail with regard to claims 1 and 2 above. Furthermore, Creemer and Wu fail to teach or suggest, for example, notifying a send file or a read file, or monitoring a send file or a read file, under the particular conditions recited in the claim.

Dependent claims 5 and 6 are believed allowable for at least the reasons identified above with regard to independent claim 3.

Claim 4

Dependent claim 4 calls for initializing the contents of the first computer application read and send files prior to data exchange to enable overwriting of any content therein. The Examiner relies primarily on FIG. 12 in Creemer. However, the relied upon portion of Creemer fails to meet the particular limitations at issue, in that it fails to teach or suggest initializing first computer

application read and send files prior to data exchange to enable overwriting as recited. Accordingly, it is believed that the collective teachings of Creemer and Wu fail to render claim 4 obvious as alleged.

Claims 7, 9 and 10

Independent claim 7, like claims 1 and 2, recites at least a computer application data file, a computer application send file and a computer application read file. It further recites particular writing, reading, notifying and monitoring steps relating to such files. The collective teachings of Creemer and Wu fail to teach or suggest the recited computer application data file, computer application send file and computer application read file, as was described in detail with regard to claims 1 and 2 above. Furthermore, Creemer and Wu fail to teach or suggest, for example, notifying a send file or a read file, or monitoring a send file or a read file, under the particular conditions recited in the claim.

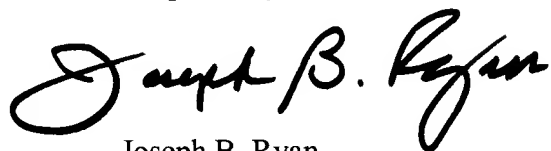
Dependent claims 9 and 10 are believed allowable for at least the reasons identified above with regard to independent claim 7.

Claim 8

Dependent claim 8 calls for initializing the contents of shared read and send files prior to data exchange to enable overwriting of any content therein. The Examiner relies primarily on FIG. 12 in Creemer. However, the relied upon portion of Creemer fails to meet the particular limitations at issue, in that it fails to teach or suggest initializing shared read and send files prior to data exchange to enable overwriting as recited. Accordingly, it is believed that the collective teachings of Creemer and Wu fail to render claim 8 obvious as alleged.

In view of the above, Applicant believes that claims 1-10 are in condition for allowance, and respectfully requests the withdrawal of the §103(a) rejection.

Respectfully submitted,

A handwritten signature in black ink, reading "Joseph B. Ryan". The signature is written in a cursive, flowing style with a large initial "J" and a prominent "R".

Date: February 22, 2006

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CLAIMS APPENDIX

1. A computing system for exchanging data between a first computer application of the system and a second computer application of the system, comprising:

a computer application data file for receiving data from the first computer application;

a computer application send file for receiving notification when the computer application data file has received data from the first computer application;

a computer application read file for receiving notification when data has been read from the computer application data file by the second computer application, the first computer application monitoring the computer application read file for notification from the second computer application to initiate further writing to the computer application data file.

2. A computing system for exchanging data between computer applications of the system, comprising:

a computer application data file for each computer application for receiving data from a corresponding one of the computer applications;

a computer application send file corresponding to each computer application data file for receiving notification when the corresponding computer application data file has received data from the corresponding one of the computer applications;

a computer application read file corresponding to each computer application data file for receiving notification when data has been read from the corresponding computer application data file by a non-corresponding computer application, the corresponding computer application

monitoring the computer application read file for notification to initiate further writing to the corresponding computer application data file.

3. A method of exchanging data between a first and second computer application of a computer system, comprising the steps of:

writing data of the first computer application to a first computer application data file;

notifying a first computer application send file when data has been written to the data file by the first computer application;

monitoring the first computer application send file from the second computer application for notification when data has been written to the first computer application data file by the first computer application;

reading the data of the first computer application data file from the second computer application upon detection of notification;

notifying a first computer application read file that data has been read by the second computer application from the first computer application data file; and

monitoring the first computer application read file from the first computer application for notification that data has been read from the first computer application data file by the second computer application to initiate further writing to the first computer application data file.

4. The method of exchanging data of claim 3, further comprising the step of:

initializing the contents of the first computer application read and send files prior to data exchange to enable overwriting of any content therein.

5. The method of exchanging data of claim 3, wherein the computer system is a network computer system.

6. The method of exchanging data of claim 3, wherein the computer system is a stand-alone computer system.

7. A method of exchanging bi-directional data between a first and second computer applications of a computer system, comprising the steps of:

writing data of the first computer application to a first computer application data file;

notifying a first computer application send file when data has been written to the first computer application data file by the first computer application;

monitoring the first computer application send file from the second computer application for notification that data has been written to the data file by the first computer application;

reading the data of the first computer application data file from the second computer application upon detection of notification;

notifying a first computer application read file when data has been read by the second computer application from the first computer application data file;

monitoring the first computer application read file from the first computer application for notification that data has been read from the first computer application data file by the second computer application to initiate further writing to the first computer application data file;

writing data of the second computer application to a second computer application data file;

notifying a second computer application send file when data has been written to the second computer application data file by the second computer application;

monitoring the second computer application send file from the first computer application for notification that data has been written to the second computer application data file by the second computer application;

reading the data of the second computer application data file from the first computer application upon detection of notification;

notifying a second computer application read file when data has been read by the first computer application from the second computer application data file; and

monitoring the second computer application read file from the second computer application for notification that data has been read from the second computer application data file by the first computer application to initiate further writing to the second computer application data file.

8. The method of exchanging data of claim 7, further comprising the step of:

initializing the contents of the shared read and send files prior to data exchange to enable overwriting of any content therein.

9. The method of exchanging data of claim 7, wherein the computer system is a network computer system.

10. The method of exchanging data of claim 7, wherein the computer system is a stand-alone computer system.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None